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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2012-667

**HAROLD B. TIDWELL SR.  
a.k.a. HAROLD BRUCE TIDWELL SR.  
2405 Sunny Lane, Apt 7  
Antioch, CA 94509**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**Registered Nurse License No. 545977**

**RESPONDENT**

**FINDINGS OF FACT**

1. On or about April 27, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-667 against Harold B. Tidwell Sr., a.k.a. Harold Bruce Tidwell Sr. (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about July 28, 1998, the Board of Registered Nursing (Board) issued Registered Nurse License No. 545977 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on October 31, 2011 and has not been renewed.

3. On or about April 27, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-667, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

2405 Sunny Lane, Apt 7

1 Antioch, CA 94509.

2 4. Service of the Accusation was effective as a matter of law under the provisions of  
3 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
4 124.

5 5. On or about May 22, 2012, the Certified Mail documents were returned and marked  
6 by the U.S. Postal Service, "Unclaimed."

7 6. Business and Professions Code section 2764 states:

8 The lapsing or suspension of a license by operation of law or by order or decision of  
9 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive  
10 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding  
11 against such license, or to render a decision suspending or revoking such license.

12 7. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
14 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
15 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's  
16 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

17 8. Respondent failed to file a Notice of Defense within 15 days after service of  
18 the Accusation upon him, and therefore waived his right to a hearing on the merits of Accusation  
19 No. 2012-667.

20 9. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
22 agency may take action based upon the respondent's express admissions or upon other evidence  
23 and affidavits may be used as evidence without any notice to respondent.

24 10. Pursuant to its authority under Government Code section 11520, the Board after  
25 having reviewed the proof of service dated April 27, 2012, signed by Aaron Hanson, and the  
26 returned envelope finds Respondent is in default. The Board will take action without further  
27 hearing and, based on Accusation No. 2012-667 and the documents contained in Default Decision  
28 Investigatory Evidence Packet in this matter which includes:

- 1 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-667,  
2 Statement to Respondent, Notice of Defense (two blank copies), Request  
3 for Discovery and Discovery Statutes (Government Code sections  
4 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail  
5 receipt or copy of returned mail envelopes;
- 6 Exhibit 2: License History Certification for Harold B. Tidwell Sr., a.k.a. Harold  
7 Bruce Tidwell Sr., Registered Nurse License No. 545977;
- 8 Exhibit 3: Affidavits of Annette Rodriguez and Patricia DeMellopine;
- 9 Exhibit 4: Certification of costs by Board for investigation and enforcement in Case  
10 No. 2012-667;
- 11 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of  
12 Case No. 2012-667

13 The Board finds that the charges and allegations in Accusation No. 2012-667 are separately and  
14 severally true and correct by clear and convincing evidence.

15 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by  
16 the Office of the Attorney General contained in the Default Decision Investigatory Evidence  
17 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that  
18 the reasonable costs for Investigation and Enforcement in connection with the Accusation are  
19 \$5,887.25 as of June 18, 2012.

20  
21 DETERMINATION OF ISSUES

22 1. Based on the foregoing findings of fact, Respondent Harold B. Tidwell Sr. a.k.a.  
23 Harold Bruce Tidwell Sr. has subjected his following license(s) to discipline:

24 a. Registered Nurse License No. 545977

25 2. The agency has jurisdiction to adjudicate this case by default.

26 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)  
27 based upon the following violations alleged in the Accusation, which are supported by the  
28 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

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- a. Violation of Business and Professions Code section 2761(a)(1) -  
Unprofessional Conduct, Gross Negligence.
- b. Violation of Business and Professions Code section 2762(a) - Obtaining or  
possessing controlled substances without a prescription.
- c. Violation of Business and Professions Code section 2762(e) - Falsify, or make  
grossly incorrect, grossly inconsistent, or unintelligible entries in any  
hospital, patient, or other record pertaining to a controlled substance.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED July 31, 2012

Board of Registered Nursing  
Department of Consumer Affairs  
State of California

Exhibit A: Accusation No. 2012-667

# Exhibit A

Accusation No. 2012-667

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 KIM M. SETTLES  
Deputy Attorney General  
4 State Bar No. 116945  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2138  
Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-667

13 **HAROLD B. TIDWELL SR.,**  
14 **aka HAROLD BRUCE TIDWELL SR.**  
15 **2405 Sunny Lane, Apt. 7**  
16 **Antioch, CA 94509**

**A C C U S A T I O N**

17 **Registered Nurse License No. 545977**

18 **Respondent.**

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about July 28, 1998, the Board of Registered Nursing issued Registered Nurse  
25 License Number 545977 to Harold B. Tidwell Sr., aka Harold Bruce Tidwell Sr., (Respondent).  
26 The Registered Nurse License expired on October 31, 2011, and has not been renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing (Board),  
Department of Consumer Affairs, under the authority of the following laws. All section  
references are to the Business and Professions Code unless otherwise indicated.

1       4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
4 Nursing Practice Act.

5       5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
7 licensee or to render a decision imposing discipline on the license.

8       6. Section 118, subdivision (b), of the Code provides that the expiration of a license  
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
10 within which the license may be renewed, restored, reissued or reinstated.

11                                   **STATUTORY PROVISIONS**

12       7. Section 2761 of the Code states:

13       "The board may take disciplinary action against a certified or licensed nurse or deny an  
14 application for a certificate or license for any of the following:

15       "(a) Unprofessional conduct, which includes, but is not limited to, the following:

16       "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
17 functions."

18       8. Section 2762 of the Code states:

19       "In addition to other acts constituting unprofessional conduct within the meaning of this  
20 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
21 chapter to do any of the following:

22       "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
23 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
24 administer to another, any controlled substance as defined in Division 10 (commencing with  
25 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
26 defined in Section 4022.

27       ...



"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

### **COST RECOVERY**

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### **DRUGS**

10. "Pyxis" is a computerized management, storage, and medication dispensing system/machine. It is a medication cart/unit containing all medications used throughout a hospital. Each Pyxis is linked to the main computer maintained by the Hospital's Pharmacy Department where all Pyxis information is stored. Medical staff are given access to the Pyxis via an assigned password selected by each medical employee.

11. "Fentanyl" (brand name "Sublimaze") is a potent synthetic narcotic analgesic used to treat chronic breakthrough pain. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(8) and a dangerous drug pursuant to Business and Professions Code section 4022.

12. "Dilaudid" (trade name "Hydromorphone Hydrochloride") is a very potent, centrally-acting, analgesic drug of the opioid class. It is used to treat moderate to severe pain. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(J) and a dangerous drug pursuant to Business and Professions Code section 4022.

13. "Norco" (brand name "Hydrocodone bitartrate, Acetaminophen") is an opiate analgesic. It is used to treat moderate to severe pain. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11056, subdivision (e) and a dangerous drug pursuant to Business and Professions Code section 4022.

14. "Percocet" and "Percodan" (brand names for "Oxycodone/Acetaminophen") are a combination of a narcotic and analgesic/antipyretic. They are used to treat moderate to severe

1 pain. They are a Schedule II controlled substance pursuant to Health and Safety Code section  
2 11055, subdivision (b)(1)(M) and a dangerous drug pursuant to Business and Professions Code  
3 section 4022.

4 15. "Morphine" is a potent opiate analgesic. It is used to treat moderate to severe pain. It  
5 is a Schedule II controlled substance pursuant to Health and Safety Code section 11055,  
6 subdivision (b)(1)(L) and a dangerous drug pursuant to Business and Professions Code section  
7 4022.

#### 8 FIRST CAUSE FOR DISCIPLINE

9 (Grossly Incorrect and/or Grossly Inconsistent Entries in Patient Records)

10 16. Respondent has subjected his license to disciplinary action under section 2761,  
11 subdivision (a) on the grounds of unprofessional conduct, as defined in section 2762, subdivision  
12 (e) in that on or about August 5, 2008, through September 18, 2008, while employed as a  
13 registered nurse at Washington Hospital Healthcare System Emergency Department, in Fremont,  
14 California, Respondent made grossly incorrect, or grossly inconsistent entries in hospital and  
15 patient records pertaining to a controlled substance and/or dangerous drug in the following  
16 respects:

17 A. Patient 4<sup>1</sup> - On August 8, 2008, at 1:48 a.m., Respondent withdrew from Pyxis  
18 two tablets of Norco for patient 4 when there was no physician's order for Norco for this patient.  
19 Respondent failed to document the patient's pain scale and failed to chart or otherwise account  
20 for the administration or wastage of the two tablets of Norco.

21 B. Patient 5 - On September 18, 2008, at 12:54 a.m., Respondent withdrew from  
22 Pyxis two tablets of Percocet for patient 5 when there was no physician's order for Percocet for  
23 this patient. Respondent failed to document the patient's pain scale and the time the medication  
24 was withdrawn on the Administration Report (MAR).

25 C. Patient 6 - On August 8, 2008, at 12:07 a.m., Respondent withdrew from Pyxis  
26 two tablets of Norco for patient 6 when there was no physician's order for Norco for this patient.

27 \_\_\_\_\_  
28 <sup>1</sup> The patient names will be released to Respondent pursuant to a request for discovery.

Respondent failed to document the patient's pain scale and failed to chart or otherwise account for the administration or waste of two tablets of Norco.

D. Patient 13 – On August 21, 2008, at 10:09 p.m., Respondent withdrew from Pyxis two tablets of Percocet for patient 13 when there was no physician's order for Percocet for this patient. Respondent failed to document the patient's pain scale and failed to chart or otherwise account for the administration or wastage of the two tablets of Percocet.

E. Patient 15 – On August 5, 2008, at 8:11 p.m., Respondent withdrew from Pyxis a 2 mg Dilaudid injection for Patient 15. The physician's order was for a 1 mg Dilaudid injection. Respondent documented the time of administration of the 1 mg Dilaudid injection at 8:00 p.m. Respondent failed to document the patient's pain scale and failed to document the wastage of 1 mg Dilaudid.

F. Patient 21 – On August 21, 2008, at 2:41 a.m., Respondent withdrew from Pyxis two tablets of Percocet for Patient 21 when there was no physician's order for Percocet for this patient. Respondent failed to document the patient's pain scale and failed to chart or otherwise account for the administration or wastage of the two tablets of Percocet.

G. Patient 24 – On August 21, 2008, at 11:42 p.m., Respondent withdrew from Pyxis two tablets of Percocet for Patient 24 when there was no physician's order for Percocet for this patient. Respondent failed to document the patient's pain scale and failed to chart or otherwise account for the administration or wastage of the two tablets of Percocet.

H. Patient 27 – On August 7, 2008, at 10:39 p.m., Respondent withdrew from Pyxis two tablets of Percocet for Patient 27 when there was no physician's order for Percocet for this patient. Respondent failed to document the patient's pain scale and failed to chart or otherwise account for the administration or wastage of the two tablets of Percocet.

I. Patient 29 – On September 17, 2008, at 11:56 p.m., Respondent withdrew from Pyxis two tablets of Percocet for Patient 29 when there was no physician's order for Percocet for this patient. Respondent failed to document the patient's pain scale and failed to chart or otherwise account for the administration or wastage of the two tablets of Percocet.

1 J. Patient 29 – On September 17, 2008, at 11:40 p.m., Respondent withdrew from  
2 Pyxis a 2 mg Dilaudid injection for Patient 29. The physician's order was for a 1 mg Dilaudid  
3 injection. Respondent failed to document the patient's pain scale failed to chart or otherwise  
4 account for the administration or wastage of the 1 mg of Dilaudid.

5 K. Patient 31 – On August 7, 2008, at 8:59 p.m., Respondent withdrew from Pyxis  
6 two tablets of Percocet for Patient 31 when there was no physician's order for Percocet for this  
7 patient. Respondent failed to document the patient's pain scale and failed to chart or otherwise  
8 account for the administration or wastage of the two tablets of Percocet.

9 L. Patient 33 – On September 17, 2008, at 2:56 a.m., Respondent withdrew from  
10 Pyxis two tablets of Percocet for Patient 33 when there was no physician's order for Percocet for  
11 this patient. Respondent failed to document the patient's pain scale and failed to chart or  
12 otherwise account for the administration or wastage of the two tablets of Percocet.

13 M. Patient 34 – On September 18, 2008, at 2:27 a.m., Respondent withdrew from  
14 Pyxis two tablets of Norco for Patient 34 when there was no physician's order for Percocet for  
15 this patient. Respondent failed to document the patient's pain scale and failed to chart or  
16 otherwise account for the administration or wastage of the two tablets of Norco.

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct – Gross Negligence)

19 17. Respondent has subjected his license to disciplinary action under section 2761,  
20 subdivision (a)(1) on the grounds of gross negligence based on the acts and/or omissions set forth  
21 in paragraph 16, above.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Unprofessional Conduct – Incompetence)

24 18. Respondent has subjected his license to disciplinary action under section 2761,  
25 subdivision (a)(1) on the grounds of incompetence based on the acts and/or omissions set forth in  
26 paragraph 16, above.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 545977, issued to Harold B. Tidwell Sr., aka Harold Bruce Tidwell Sr.;
2. Ordering Harold B. Tidwell Sr., aka Harold Bruce Tidwell Sr., to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED:

April 27, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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